

Applicant: Piotr Budny
Appl. No.: 10/580,031

REMARKS

The Applicant thanks the Examiner for the careful consideration of this application.

Claims 1, 2, 6-20, and 22-25 are currently pending. Claims 3-5 and 21 have been cancelled, without prejudice. Claims 1, 6, and 7 have been amended. In view of the foregoing amendments and the following remarks, the Applicant respectfully requests that the Examiner reconsider all outstanding rejections and that they be withdrawn.

Allowable Subject Matter

The Applicant appreciates the Office Action's allowance of claim 25.

Rejections under 35 U.S.C. § 112

The Office Action rejected claims 6, 7, and 12 under 35 U.S.C. § 112, second paragraph, as being incomplete for omitting essential elements. The Applicant traverses this rejection. Nevertheless, solely to further prosecution, claim 6 has been reverted to dependent form and now depends from claim 1, which recites the "fence elements." Claim 7 has been amended to clarify that the frame "surround[s] the roll-up gate," and claim 12 includes this recitation by virtue of its dependence from claim 7. Accordingly, the Applicant requests that the rejections under 35 U.S.C. § 112, second paragraph, be withdrawn.

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Rejections under 35 U.S.C. § 103

(1) The Office Action rejected claims 1, 2, 8, and 9 under 35 U.S.C. § 103(a) as being obvious over the alleged admitted prior art (“APA”) in view of U.S. Patent No. 3,912,061 to Foster, Jr. (“Foster”). Claim 1 is the independent claim. The Applicant traverses this rejection. Nevertheless, solely to facilitate further prosecution, claim 1 has been amended to incorporate the subject matter of claims 3, 4, and 5, which are not subject to this rejection. Accordingly, the Applicant submits that this rejection is now moot.

(2) The Office Action rejected claims 10 and 11 under 35 U.S.C. § 103(a) as being obvious over APA and Foster, and further in view of U.S. Patent No. 4,827,691 to Hanada et al. (“Hanada”). Claims 10 and 11 depend from claim 1, which as demonstrated above, is patentable over APA and Foster. Hanada does not remedy the deficiencies of APA and Foster. Accordingly, claim 1 and its dependent claims 10-11 are patentable over any reasonable combination of APA, Foster, and Hanada.

(3) The Office Action rejected claims 3-5 under 35 U.S.C. § 103(a) as being obvious over APA and Foster, and further in view of U.S. Patent No. 6,419,438 to Rosenquist (“Rosenquist”). Solely to further prosecution, the subject matter of claims 3-5 has been amended into claim 1. Accordingly, this rejection will be discussed in connection with claim 1. The Applicant submits that claim 1 is patentable over the APA, Foster, and Rosenquist for at least the following reasons.

No reasonable combination of the APA, Foster, and Rosenquist discloses or renders obvious “fence elements interconnecting the first reservoir and the device that alters the level of

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the receptacles, to enclose a work chamber . . . wherein the handling device is located in the work chamber between the device that alters the level of the receptacles and the first reservoir,” as recited by claim 1. The Office Action apparently aligns the first reservoir, the device that alters the fill level of the receptacles, and the handling device described in the APA with the claimed “first reservoir,” “device that alters the level of the receptacles,” and “handling device,” respectively. The Office Action acknowledges that the APA fails to disclose the claimed “fence elements,” but instead relies on the fence sections 18 shown in Foster’s FIG. 1. However, under no circumstances would the asserted combination of the APA and Foster result in Foster’s fence sections 18 *interconnecting* the reservoir of the APA with the device that alters the level of the receptacles of the APA, to enclose a work chamber, with the handling device of the APA located in the work chamber, as claimed.

Referring to Foster’s FIG. 1, the fence sections 18 do not *interconnect* the mechanical equipment 12, but rather form a physical barrier *about* the mechanical equipment 12. Foster discloses that it is important to create a physical barrier about the mechanical equipment 12 (i.e., around it) in order to protect workers from the moving parts of the equipment. (See, e.g., Foster at col. 1, ll. 43-46, 56-60, col. 2, ll. 10-14.) Moving Foster’s fence sections 18 to a position where they interconnect the mechanical equipment 12, instead of surrounding it, would reduce the protection afforded by the fence sections 18. This would be counter to the stated object of Foster. Therefore, any combination of the APA and Foster would result in Foster’s fence sections 18 being located *about* or *around* the reservoir and the device that alters the level of the receptacles of the APA, *not* interconnecting them. Rosenquist does not remedy the deficiencies

of the APA and Foster.

Further, the asserted combination of the APA, Foster, and Rosenquist would not result in the handling device of the APA necessarily being located in the work chamber *between* the interconnected first reservoir and device that alters the fill level of the receptacles, as claimed. The APA discloses that “considerable travelling distances are required for transfer of receptacles from the reservoir to the device which alters the fill level.” Further, the APA discloses that “a complex cycle of movement of the handling device with long transport distances is required.” This is contrary to the arrangement of claim 1, where “the handling device is located in the work chamber between the device that alters the level of the receptacles and the first reservoir.”

In view of the foregoing, no reasonable combination of the APA, Foster, and Rosenquist discloses or renders obvious “fence elements interconnecting the first reservoir and the device that alters the level of the receptacles, to enclose a work chamber . . . wherein the handling device is located in the work chamber between the device that alters the level of the receptacles and the first reservoir,” as recited by claim 1.

(4) The Office Action rejected claims 6, 7, and 12 as being obvious over APA and Foster, and further in view of Japanese Document JP 2003-193777 (“JP”). Claims 6, 7, and 12 depend from claim 1, which as demonstrated above, is patentable over any reasonable combination of APA and Foster. JP does not remedy the deficiencies of APA and Foster. Accordingly, claim 1 and its dependent claims 6, 7, and 12 are patentable over any reasonable combination of APA, Foster, and JP.

(5) The Office Action rejected claims 13-20 and 22 under 35 U.S.C. § 103(a) as being

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obvious over APA and Foster, and further in view of U.S. Patent No. 4,789,295 to Boucher, Jr. et al. (“Boucher”). Claims 13-20 and 22 depend from claim 1, which as demonstrated above, is patentable over any reasonable combination of APA and Foster. Boucher does not remedy the deficiencies of APA and Foster. Accordingly, claim 1 and its dependent claims 13-20 and 22 are patentable over any reasonable combination of APA, Foster, and Boucher.

(6) The Office Action rejected claims 23 and 24 under 35 U.S.C. § 103(a) as being obvious over APA, Foster, and Boucher, and further in view of U.S. Patent No. 6,478,137 to Hebels et al. (“Hebels”). Claims 23 and 24 depend from claim 1, which as demonstrated above, is patentable over any reasonable combination of APA, Foster, and Boucher. Hebels does not remedy the deficiencies of APA, Foster, and Boucher. Accordingly, claim 1 and its dependent claims 23 and 24 are patentable over any reasonable combination of APA, Foster, Boucher, and Hebels.

Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant, therefore, respectfully requests that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is hereby invited to telephone the undersigned at the number provided.

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Prompt and favorable consideration of this Amendment is respectfully requested.

Respectfully submitted,

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